UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

December 18, 2015

The Honorable John Shimkus
Chairman, Subcommittee on Environment
and the Economy
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The U.S. Nuclear Regulatory Commission appeared before the Subcommittee on Environment and the Economy on October 28, 2015, at the hearing entitled, "Update on Low-level Radioactive Waste Disposal Issues." From that hearing, you forwarded questions for the hearing record to Mr. Michael Weber. The responses to those questions are enclosed. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

[redacted]

James Colgary, Associate Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Representative Paul Tonko, Ranking Member

The Honorable John Shimkus

QUESTION 1. **In the hearing, you indicated that the NRC evaluated in the 1980s whether an integrated or coordinated rulemaking was needed and concluded it wasn't necessary. Given the substantive comments regarding this issue in the Part 61 rulemaking docket, will NRC re-evaluate the prior determination? If not, why not?**

ANSWER.

The NRC is not reevaluating whether a more extensive rulemaking is needed at this time. The definitions of radioactive waste are established in a variety of Federal statutes, including the Low-Level Radioactive Waste Policy Amendments Act, the Nuclear Waste Policy Act, and the Uranium Mill Tailings Radiation Control Act. The NRC has developed a regulatory frameworks consistent with the governing statutes that ensures protection of the public. An integrated approach would likely require changes to Federal statutes. In addition, the substantial effort to develop and coordinate such an integrated rulemaking would not be justified by the safety or other potential benefits of such a rulemaking.

With respect to low-level radioactive waste, in Revised SRM-SECY-13-0001, "Staff Recommendations for Improving the Integration of the Ongoing 10 CFR Part 61 Rulemaking Initiatives," the Commission directed the staff in 2013 to avoid any additional changes to Part 61 until the current limited scope rulemaking is complete. The current limited scope rulemaking may obviate the need for more comprehensive revisions to the rule, such as revising the waste classification tables. The Commission directed the staff to, after the limited rulemaking is complete, solicit public comments, consider the comments, and provide a recommendation to

the Commission on whether there is a need for a second rulemaking effort to revise waste classification tables that are contained in Part 61.

QUESTION 2. **Mr. Weber, have you completed an analysis of the technical basis for adding Greater Than Class C (GTCC) and transuranic (TRU) waste to the Part 61 rulemaking?**

a. If you do not have a technical basis for these wastes, how can you determine the timing for the rulemaking?

b. What are the key technical considerations in expanding Part 61 to include these wastes?

ANSWER.

a. The NRC staff has not completed a technical basis for adding Greater than Class C (GTCC) and transuranic waste to the current Part 61 rulemaking effort. The Commission will decide whether and how to proceed with a proposed rulemaking on GTCC and TRU waste in response to the paper evaluating options currently before the Commission for consideration.

b. The key technical considerations for such a rulemaking will depend on the Commission's directed approach. Based on the NRC's previous rulemakings in this area, the staff anticipates that key considerations could include:

- Performance objectives for low-level waste disposal, including protection of the public and workers, as well as the security of certain wastes
- Durability and effectiveness of engineered barriers in isolating wastes
- Risks associated with potential inadvertent intrusion into the wastes
- Durability and effectiveness of institutional controls

- Intergenerational equity
- Consistency with the level of protection accorded to other radioactive wastes

QUESTION 3. **The NRC is considering significant changes to Part 61 requirements for disposal of depleted uranium. Given the downturn in nuclear fuel markets that continues after the 2011 events at Fukushima, plans for a number of new uranium enrichment projects licensed by the NRC - Areva's Eagle Rock project, Centrus' American Centrifuge plant, GE's Global Laser Isotope facility, as well as International Isotope's proposed depleted uranium deconversion facility - appear to be on-hold.**

a. Are the changes to Part 61 still justified if these projects don't materialize?

b. Prior to undertaking a rulemaking process, does NRC Staff consider market outlook for the licensees who are impacted [by] the Commission's undertaking?

ANSWER.

a. Yes, the proposed rule change is justified because there already is a large volume of depleted uranium being stored until it can be disposed of or otherwise dispositioned safely. This includes depleted uranium resulting from the Louisiana Energy Services (LES, URENCO-USA) enrichment facility's previous and current operations, as well as the past operations of the Department of Energy (DOE) enrichment facilities. Additionally, the DOE is considering using commercial facilities to dispose of its large quantities of depleted

uranium. The current Part 61 rulemaking will address the safety of shallow land disposal of depleted uranium.

b. Yes, the staff considers market outlook when considering the need for rulemaking. For example, the projected outlook for the generation of waste affects the characteristics of the waste considered by the NRC in assessing the impacts and benefits of regulatory changes. The staff reviewed information from the Agreement States and NRC indicating two of the four existing low-level radioactive waste (LLRW) disposal facilities have expressed an interest in accepting large quantities of LLRW, including depleted uranium. Regarding the other two disposal facilities, one indicated it would not accept additional long-lived LLRW like depleted uranium, and the other has not made its intentions known. In this case, the current large supply of depleted uranium demonstrates a need for this proposed rule change.